

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21051

Application 26351 of **North Kern Water Storage District**
 P.O. Box 81435
 Bakersfield, CA 93380-1435

filed on **May 14, 1980**, has been approved by the State Water Resources Control Board (SWRCB)
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source Poso Creek	Tributary to Tulare Lake
_____	_____
_____	_____
_____	_____

within the County of **Kern**

2. Location of point of diversion

By California Coordinate System in Zone 5 N0778800, E1627600	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Direct Diversion and Diversion to Underground Storage: North 900 feet and East 1,500 feet SW Corner of Section 26	SE¼ of SW¼	26	26S	25E	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Irrigation		7, 8, 16 through 23, 26 through 36	26S	25E	MD	
		1 through 10, 16, 17, 21	27S	25E	MD	
		25	27S	24E	MD	

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed (a) 175 cubic feet per second by direct diversion, not to exceed a total of 15,000 acre-feet per annum (afa), and (b) 10,000 afa by underground storage from December 1 of each year to May 31 of the succeeding year. The total amount of water to be taken from the sources shall not exceed 25,000 acre-feet per water year of October 1 to September 30.

(0000005E)

6. Documentation of complete application of the water to the authorized use shall be made by December 31, 2004. This will allow documentation of existing use under various rainfall patterns.

(0000009)

7. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.

(0000022)

8. The allocation of the available water resources under Permit 17538 (Application 25117) of Semitropic Water Storage District, and the permits issued for Application 26351 of North Kern Water Storage District and Application 26454 of Cawelo Water District is governed by a private agreement among these parties dated May 23, 1997 and amended on September 21, 1999. If the agreement is modified, the permittee shall provide to the Chief of the Division of Water Rights a revised allocation schedule and the permittee shall operate to the revised schedule. If the agreement is terminated the Chief of the Division of Water Rights shall determine the water allocation schedule needed to protect prior rights and public trust resources, and the permittee shall operate to this schedule.

(0000024)

9. This permit authorizes (a) direct diversion and (b) percolation to underground storage in the offstream 370 acre Poso Creek Spreading Works. All water diverted under (a) and (b) is conveyed via canal from Poso Creek for irrigation use or percolation to underground storage. Average daily diversions shall be gaged in cubic per second (cfs) at the point of diversion from Poso Creek and average daily measurements (cfs) of the quantity rediverted from the canal into Poso Creek Spreading Works shall also be kept. Separate records shall be kept for (c) any use of the canal for purposes of delivering water under the riparian and/or pre-1914 appropriative rights of members of North Kern Water Storage District. The records for (a), (b), and (c) shall be submitted to the State Water Resources Control Board with the Progress Report by Permittee.

(0080900)

(0090900)

10. Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the Chief of the Division of Water Rights for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the Division Chief. A progress report on the development of a water conservation program may be required by the Division Chief at any time within this period.

Features of the water conservation plan may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(0000029B)

11. If the Poso Creek Spreading Works dam is of such size as to be within the jurisdiction of the Department of Water Resources as to safety, storage under this permit shall not be commenced until the Department has approved the plans and specifications for the dam.

(0360048)

12. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Valley, Region 5, Fresno or by the State Water Resources Control Board.

(0000100)

13. No water shall be used under this permit until permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, Region 5, Fresno pursuant to Water Code Section 13260, and the Regional Board or State Water Resources Control Board has

prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the Regional Board or State Board are being met. No point source discharges of waste to surface water shall be made unless waste discharge requirements are issued by a Regional Board or the State Board. A discharge to ground water without issuance of a waste discharge requirement may be allowed if, after filing the report pursuant to Section 13260:

(1) the Regional Board issues a waiver pursuant to Section 13269, or

(2) the Regional Board fails to act within 120 days of the filing of the report. No permittee shall be required to file a report of waste discharge pursuant to Section 13260 of the Water Code for percolation to ground water of water resulting from the irrigation of crops.

(0290101)

14. Prior to diversion of water under this permit, permittee shall (1) install devices to measure the quantities of water placed into underground storage and (2) install devices to measure or provide documentation of the method to be used to determine the quantity of water recovered from underground storage and placed to beneficial use. A plan describing the measuring devices and the method of determining the quantity of water recovered from underground storage shall be submitted to the Chief of the Division of Water Rights for review, modification (as appropriate) and approval within six months from the date of this permit. All measuring devices shall be properly maintained.

(0080117)

15. Permittee shall install and maintain devices satisfactory to the Chief of the Division of Water Rights to measure the instantaneous rate of diversion and cumulative quantity of water diverted under this permit. A record of such measurements shall be maintained by the permittee, and made available to interested parties upon reasonable request. A copy of the records shall be submitted to the State Water Resources Control Board with the annual "Progress Report by Permittee".

Permittee shall allow the State Water Resources Control Board, or a designated representative, reasonable access to measuring devices for the purpose of verifying measurement readings.

(0090900)

16. ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

(A) Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.

(B) The amount authorized for appropriation may be reduced in the license if investigation warrants.

(C) Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.

(D) Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.

(E) Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this condition unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.


This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: JUL 6 2000



Harry M. Schueller, Chief
Division of Water Rights